

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TAHIRA RENEE BUSSEY,
KHALEDA NIKITA THOMPSON, HASSAN
KHALID HASSAN THOMPSON, and KHALID
MARTEEN THOMPSON, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHELIA ANNETTE THOMAS, f/k/a SHELIA
ANNETTE BUSSEY,

Respondent-Appellant.

UNPUBLISHED

October 23, 2003

No. 246091

Wayne Circuit Court

Family Division

LC No. 89-276266

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(A) and (E)(1)(b).

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I);¹ *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The trial court's findings are clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake has been made. *In re Terry*, 240 Mich App 14, 22; 610 NW2d 563 (2000). The primary condition that led to the adjudication in this matter was respondent's drug addiction. Respondent admitted that she has been addicted to cocaine for over twenty years and that her addiction interfered with her ability to parent her

¹ Effective May 1, 2003, the court rules governing proceedings regarding juveniles were amended and moved to the new MCR subchapter 3.900. The provisions on termination of parental rights are now found in MCR 3.977. The court rule provision setting forth the "clearly erroneous" standard of review is now found in MCR 3.977(J).

children. The evidence at trial clearly and convincingly showed that respondent failed to successfully address her drug addiction. Respondent twice tested positive for cocaine, and did not finish her most recent drug treatment program. Furthermore, the evidence offered little hope that respondent will successfully address her addiction in the reasonable future. Factors contributing to this conclusion include respondent's statement (later recanted) that she was involved in a relationship with a cocaine user. The Clinic for Child Study indicated that respondent continues to exhibit some of the secretive and manipulative characteristics of a drug user, and further that her relocation to Ohio during the pendency of this case had the appearance of an attempt to avoid responsibilities. Respondent's failure to follow through with psychotherapy indicates little likelihood of a change in her behavior. In summary, the evidence strongly indicated that respondent continued to retain attitudes and behaviors that make sustained recovery highly unlikely. We conclude that the trial court did not clearly err by terminating respondent's parental rights pursuant to MCL 712A.19b(3)(c)(i).

Termination was also warranted under MCL 712A.19b(3)(g). Clearly respondent failed to provide proper care and custody for the children when she left three of them alone at home for twelve hours. The testimony at trial also provided clear and convincing evidence that respondent would not be able to provide proper care and custody for the children in the future. Respondent's continuing drug addiction appears to be the greatest impediment to her ability to parent the children. Respondent's positive drug screens, her failure to complete drug treatment, and her failure to follow through with psychotherapy all bode poorly for respondent's ability to provide proper care and custody for the children in the reasonable future. We note that the most critical elements of respondent's treatment plan were those addressing her drug addiction and mental health issues. A parent's failure to carry out the parent-agency agreement is evidence of the parent's failure to provide proper care and custody for the child. See *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003). Respondent's argument that she was not given sufficient time and means to address her problems is not persuasive. The two-year pendency of this case certainly afforded respondent ample time to address the issues set forth in the parent-agency agreement. Moreover, the provision of means for respondent does not appear to have been an issue in this case, as she exhibited considerable initiative in engaging services in Ohio, but then failed to follow through with those services. The trial court did not make a mistake by terminating respondent's parental rights pursuant to MCL 712A.19b(3)(g).

The same evidence supporting termination under statutory subsections (3)(c)(i) and (g) also demonstrated that the children would likely be harmed if returned to respondent. We therefore conclude that the trial court did not clearly err by terminating respondent's parental rights pursuant to MCL 712A.19b(3)(j).

Finally, we conclude that the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the children. MCL 712A.19b(5). At the time of the termination trial, the minor children had been in care for over two years. They were previously placed in care for a time in 1999. Tahira was first placed in care in 1989 and Khaleda entered care in 1991 at four months of age; both were returned to respondent's care in 1994. Given respondent's long-time drug addiction, her extensive history with protective services and her failure to maintain a successful recovery from addiction, and additionally considering the special

needs of Khaleda, the unequivocal preference of Tahira not to return to her mother, and the young ages of Hassan and Khalid, we conclude that the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the children.

We affirm.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello